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EXAMINER
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HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/543,049

Applicant(s)

POMERANCE, BRENDA

Examiner

John W Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-63 and 82-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 82-84 is/are allowed.
- 6) ☒ Claim(s) 46-63 and 85-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Status of Claims***

1. Applicant has previously canceled claims 1-45. Applicant has amended claims 46, 55, 82 and 85 in the amendment filed 26 June 2003.

### ***Response to Arguments***

2. Applicant's arguments filed 26 June 2003 have been fully considered but they are either not persuasive, or moot based on the new grounds of rejection in accordance with the discussion below.

3. With respect to claim 46, applicant argues that Sloo fails to disclose or suggest the step of providing selected data to the complainer, the selected data being chosen from data previously received from a complaineer based on the initial information from the complainer. With regard to this limitation in claim 46, examiner has examined this limitation and has given this limitation its broadest reasonable interpretation. See *Springs Window Fashions LP v. Novo Industries, L.P.*, 65 USPQ2d 1826, 1830 (Fed. Cir. 2003). Examiner submits, that given the broadest reasonable interpretation of this claim limitation, Sloo discloses this feature. Sloo discloses automatically retrieving and selecting data from previously resolved complaints based on the initial information from the complainer and providing this data to the complainer. Sloo also teaches that the system would draw from information gathered from previous recorded encounters and inform the participant of what the complaint handling apparatus knows about the object; or create warnings or bulletins on objects based on what it knows about the participant and the situation (Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8). It is the examiner's contention that the claim language, as currently recited, does not specify in any way whatsoever, what type of data was previous provided by the complaineer or what the data relates to. Therefore, examiner submits that the above teaching by Sloo meets this limitation as currently recited.

4. Applicant further argues that Sloo teaches that the complainer is anonymous, whereas claim 46 requires an identified complainer. Examiner submits that Sloo teaches an added benefit that enables the

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parties to a dispute to remain anonymous so that members of the public and also the complainees cannot determine the identity of the complainer, however, examiner submits that this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Furthermore, although Sloo teaches that the communications between the complainer and complainees are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art to provide complainer identifying information to the complainees in the event that the parties have no desire to remain anonymous. For example, the previously cited reference "Online Mediation Offered for Resolving E-Commerce Disputes" discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous.

5. With respect to claim 55, applicant asserts that Sloo does not teach including the emotional state of the complainer. Examiner agrees with this characterization of Sloo, however, has cited additional references in addition to Sloo such as the "Online Resolution" and "Eisen" that support why it would have been obvious to include emotional state information when handling disputes. Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Examiner agrees that Online Resolution fails to disclose including emotional state information from a complainer and including this information in a complaint, however, Online Resolution at least discloses the importance of emotion in the mediation process. Applicant asserts that Eisen is consistently skeptical about the efficacy of online mediation due to the constraints of an online mediation process, or that it could be very costly and difficult to articulate one's position in textual form. Examiner

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submits that this is not a positive teaching that it is impossible to include emotional information in an online mediation process, but rather may be difficult. Examiner submits that Eisen, however, supports the idea that emotion is an important part of the mediation process and it would have been obvious to include this type of information in any online mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, examiner submits that it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

6. Applicant asserts that the references to Online Resolution and Eisen are not within the field of the inventor's endeavor and, therefore, do not qualify as prior art. In response to applicant's argument that Online Resolution and Eisen is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Examiner respectfully disagrees with applicant's characterization of these references since both references are obviously related to handling disputes between parties and both provide teachings related to handling of emotions

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within a dispute process and, therefore, examiner believes that these references are reasonably pertinent to applicant's claimed invention. Examiner submits that just because these references may provide references to a mediator does not make them completely irrelevant or even disqualify them as prior art.

7. With respect to claim 85, applicant has added limitations to this claim related to "automatically selecting, at the computer, at least one selected remedy from a predetermined set of remedies based on the information from the complainer, the predetermined set of remedies being provided from the complaine". Examiner has reviewed applicant's disclosure and submits that this added limitation finds no support in the specification as currently written and is, therefore, directed to new matter. Applicant's specification appears to teach wherein customers offer remedies but provides no teaching related to selecting a remedy from a predetermined set of remedies provided by the complaine. Applicant cites page 10, lines 5-6, 8-9 and lines 19-21 as providing support for this new claim language. Examiner submits that these areas of applicant's specification simply teach that the system may suggest an appropriate dispute resolution in addition to or instead of remedies indicated by the customer. Applicant's specification also teaches that the merchant may provide information about its policies to be sent to customers in the event of disputes. However, examiner submits that these teachings do not provide adequate support for the claim language of claim 85 as currently amended. Applicant's specification provides no teaching or disclosure concerning automatically selecting at least one remedy from a predetermined set of remedies provided from the complaine.

8. With respect to claim 49, applicant asserts that the reference to Brownwell is not within the field of automated assisted negotiation systems and is not reasonably pertinent to the field of invention. In response to applicant's argument that Brownwell is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the claim limitations include the recitation that the prepared complaint includes statements in first person language. Examiner submits that the reference to Brownwell is reasonably pertinent to applicant's claimed invention since it discloses advantages to using first person language when

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communicating and that using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice.

9. With respect to claim 51, applicant also assert that McFarland is not reasonably pertinent to the field of the present invention. Again, examiner respectfully disagrees since the claim includes a recitation relating to automatically docketing the complaint for follow up action and since McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5).

#### ***Drawings***

10. The corrected or substitute drawings were received on 05 March 2002. These drawings are approved by the draftsman.

#### ***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claims 85-89 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has added limitations to this claim related to "automatically selecting, at the computer, at least one selected remedy from a predetermined set of remedies based on the information from the complainer, the predetermined set of remedies being provided from the complaine". Examiner has reviewed applicant's disclosure and

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submits that this added limitation finds no support in the specification as currently written and is, therefore, directed to new matter. Applicant's specification appears to teach wherein customers offer remedies but provides no teaching related to selecting a remedy from a predetermined set of remedies provided by the complainee. Applicant cites page 10, lines 5-6, 8-9 and lines 19-21 as providing support for this new claim language. Examiner submits that these areas of applicant's specification simply teach that the system may suggest an appropriate dispute resolution in addition to or instead of remedies indicated by the customer. Applicant's specification also teaches that the merchant may provide information about its policies to be sent to customers in the event of disputes. However, examiner submits that these teachings do not provide adequate support for the claim language of claim 85 as currently amended. Applicant's specification provides no teaching or disclosure concerning automatically selecting at least one remedy from a predetermined set of remedies provided from the complainee..

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of "Online Mediation Offered for Resolving E-Commerce Disputes", Press Release, Online Resolution, 23 March 2000 [hereinafter referred to as Online Resolution]..

As per **Claim 46**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving, at a computer, initial information from a complainer including information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53);



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- automatically selecting, at the computer, selected data from data previously received from a complainee based on the initial information from the complainer (Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8);
- automatically providing, from the computer, the selected data to the complainer (Col. 4, lines 45-50; Col. 10, lines 47-53, Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8);
- automatically receiving, at the computer, additional information from the complainer after providing the data to the complainer (Col. 4, line 63-Col. 5 line 2; Col. 5, lines 21-29);
- automatically preparing, at the computer, the complaint based on the initial information and the additional information received from the complainer (Col. 5, lines 3-11 and 21-29)
- automatically presenting, from the computer, the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complainee (Col. 5, lines 37-46).

Sloo discloses automatically retrieving and selecting data from previously resolved complaints based on the initial information from the complainer and providing this data to the complainer. Sloo also teaches that the system would draw from information gathered from previous recorded encounters and inform the participant of what the complaint handling apparatus knows about the object; or create warnings or bulletins on objects based on what it knows about the participant and the situation (Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8). Sloo fails to explicitly disclose that the information gathered from previous recorded encounters or previously resolved complaints is from the complainee, however, examiner submits that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention that information recorded from previous encounters or previously resolved complaints would include information from a complainee.

Sloo also fails to explicitly disclose that the complaint forwarded to the complainee includes information identifying the complainer. Sloo does teach, however, an added benefit that enables the parties to a dispute to remain anonymous so that members of the public and also the complainees cannot

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determine the identity of the complainer, however, this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Although Sloo teaches that the communications between the complainer and complainee are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art to provide complainer identifying information to the complainee in the event that the parties have no desire to remain anonymous. For example, Online Resolution discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous.

As per **Claim 48**, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complainee. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complainee. Sloo provides motivation by indicating that this would give the complainee the option of accepting or refusing the offer in an effort to settle the dispute.

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As per **Claim 50**, Sloo and Online Resolution fail to expressly disclose that the data provided to the complainer previously received from a complainees relates to a complaint handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of receiving data and providing data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complainees or any other source any type of data and providing the data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claim 52**, Sloo further discloses providing a response from the complainees to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per **Claim 53**, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per **Claim 54**, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

15. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Online Resolution as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

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As per **Claim 47**, Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

As per **Claim 55**, Sloo discloses a method of processing a complaint comprising:

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- automatically receiving, at a computer, information from a complainer including information describing a problem and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53)
- automatically, at the computer, preparing the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically, at the computer, presenting the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complaine (Col. 5, lines 37-46).

Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry

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and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complainees to get a better understanding of the complainers state of feeling and would enable the complainees to more effectively respond to the complaint.

As per **Claim 56 and 57**, Sloo and Online Resolution fail to expressly disclose that the data provided to the complainer is previously received from a complainees or that it relates to a complaint handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of receiving data and providing data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complainees or any other source any type of data and providing the data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claim 58**, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would

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accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complainee. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complainee. Sloo provides motivation by indicating that this would give the complainee the option of accepting or refusing the offer in an effort to settle the dispute.

As per Claim 61, Sloo further discloses providing a response from the complainee to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per Claim 62, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per Claim 63, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

16. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per Claims 49, Sloo discloses a method of preparing and processing a complaint, however, fails to expressly disclose wherein the prepared complaint includes statements in the first person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of

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applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics, team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

17. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

As per Claim 51, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complainee.

18. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per Claim 59, Sloo discloses a method of preparing and processing a complaint as discussed above, however, fail to expressly disclose wherein the prepared complaint includes statements in the first



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person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics, team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

19. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above, and further in view of McFarland, U.S. Patent No. 6,154,753.

As per **Claim 60**, Sloo disclose a method for dispute resolution, however, fail to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

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20. Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Thiessen, U.S. Patent No. 5,495,412.

As per **Claim 85**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving, at a computer, information from a complainer including information relating to a problem experienced by the complainer and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53);
- automatically selecting, at the computer, at least one remedy or proposed solution based on the information from the complainer (Col. 11, lines 21-36);
- automatically suggesting, at the computer, the at least one selected remedy to the complainer (Col. 11, lines 21-36).
- automatically preparing, at the computer, the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically presenting, from the computer, the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complaine (Col. 5, lines 37-46).

Sloo, however, fails to specifically disclose receiving a response to the suggested remedy.

Thiessen discloses a computer-based method for interactive computer-assisted negotiations and teaches automatically suggesting solutions or remedies to parties of a dispute (Col. 3, lines 30-39 and 50-55; Col. 4, lines 54-60; Col. 5, lines 53-60) and receiving a response to the suggested solution (Col. 4, lines 55-60; Col. 5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to suggest a remedy to a party of a dispute as disclosed by Thiessen. Thiessen provides motivation by indicating that making suggestions or proposed solutions would provide an alternative that all parties of a conflict could consider and might find acceptable (Col. 1, lines 25-41) or may significantly help in the quest for agreement.

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Furthermore, Sloo fails to disclose selecting a remedy from a "predetermined set of remedies that are provided from the complainee", however, as discussed above, this limitation is directed to new subject matter that does not have adequate support in applicant's specification.

As per **Claim 88**, Sloo further discloses providing a response from the complainee to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per **Claim 89**, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

21. Claim 86 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

As per **Claim 86**, Sloo discloses a method of facilitating dispute resolution between a complainer and a complainee and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be

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unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

22. Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

As per Claim 87, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

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***Allowable Subject Matter***

23. Claims 82-84 are allowable over the prior art of record.

***Conclusion***

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zacher, Annette discloses that emotional factors may be the key ingredient to keeping customers and profiting in the changing high tech world.
- Hurd discloses a system and method for tracking issues and assigning the issue to the appropriate personnel.
- Burchetta et al disclose a computerized system for automated dispute resolution via the Internet or other communications linkage
- Bereiter et al disclose a method for automated problem resolution and teach rules for determining which group or person should handle the problem.

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- Thiessen discloses a system with graphical interfaces that are used by each party involved in the negotiation process to input information pertaining to their individual preferences on each issue to be negotiated and the system encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable
- Griffeth et al disclose a method wherein an agent generates a proposal acceptable to it and transmits the proposal to another agent. If the receiving agent determines if the proposal is acceptable and if not generates a counterproposal and the process continues until a proposal acceptable to both parties is found
- Rosen discloses a method for electronic merchandise dispute resolution wherein trusted agents are used to resolve disputes
- Wamsley et al disclose a personal injury claim management system and teach the use of an alternative dispute resolution process when there is difficulty in settling a claim
- Kesel discloses an apparatus for collecting, analyzing and reporting information on goods and services offered for sale to customers by providers
- "SquareTrade Launches New Consumer Protection Tool; First Online Dispute Resolution Pilot on eBay" discloses a structured and unbiased multi-step process to guide disputing parties to a resolution, which is conducted completely online and wherein a mediator is assigned to work with the two parties to develop a fair, agreeable settlement
- Dennehy, "New Online Mediation Service" discloses an online mediation service wherein users visit a web site to fill out a form describing their dispute and the site contacts the other party to see if they are willing to participate in mediation. If both sides agree, a mediator is assigned to help the parties reach an agreement.

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26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

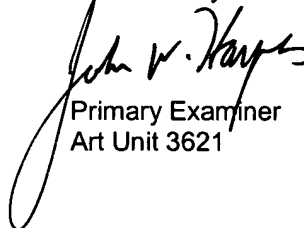
or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-5531** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,  
VA, 7<sup>th</sup> floor receptionist.

John W. Hayes



Primary Examiner  
Art Unit 3621

September 10, 2003